

H-1790-1 - NATIONAL ENVIRONMENTAL POLICY ACT HANDBOOK

NEPA STATUTORY, REGULATORY AND GUIDANCE DOCUMENTS

Legislation

The National Environmental Policy Act of 1969 (NEPA), as amended (Pub. L. 91-90, 42 U.S.C. 4321 et seq.). This Act establishes a national policy for the protection and enhancement of the environment. The Act directs Federal agencies to use a systematic interdisciplinary approach, which ensures the integrated use of natural and social sciences and the design arts, in planning and decisionmaking affecting the human environment. The Act also establishes the Council for Environmental Quality.

The Environmental Quality Improvement Act of 1970 (Pub. L. 91-224, 42 U.S.C. 4371-4374). This Act declares there is a national policy for the environment providing for the enhancement of environmental quality as evidenced by existing statutes on the prevention, abatement, and control of environmental pollution, water and land resources, transportation and economic and regional development. The Act is intended to assure that Federal agencies conducting or supporting public works activities affecting the environment implement the policies established under existing law and to authorize the Office of Environmental Quality to provide staff support to the CEQ.

The Clean Air Act (Pub. L. 91-604, 42 U.S.C. 7609, 1970). This Act authorizes EPA to review and comment on the environmental impact of matters relating to EPA's duties and responsibilities in any proposed legislation, proposed Federal construction projects or any other major Federal agency actions and proposed regulations published by any Federal agency. Such comments are to be made public and, in the event the findings are unsatisfactory from the standpoint of public health or welfare or environmental quality, determinations are to be published and referred to CEQ.

Executive Orders

Executive Order 11514. Protection and Enhancement of Environmental Quality (March 5, 1970, as amended by E.O. 11991 of May 24, 1977). This Order was prepared in furtherance of the purpose and policy of NEPA. It established a policy for the Federal Government to provide leadership in protecting and enhancing the quality of the Nation's environment and for Federal agencies to initiate measures needed to direct their policies, plans and programs so as to meet national environmental goals.

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CEQ Regulations and Guidance

Regulations for Implementing the Procedural Provisions of the National Environmental Policy Act, as amended, (40 CFR Parts 1500-1508). These regulations, prepared by the CEQ, set forth policies and procedures to be followed by all Federal agencies in implementing NEPA.

Forty Most Asked Questions Concerning CEQ's National Environmental Policy Act Regulations (46 FR 18026, 1981, as modified in 1986). As a result of nationwide oversight meetings with Federal, State and local officials, the CEQ compiled and published in the Federal Register responses to the most important or most frequently asked questions concerning NEPA procedures. Question 20 on worst case analysis was deleted in 1986 when the CEQ regulations implementing NEPA were amended.

Guidance Regarding NEPA Regulations (48 FR 34263, 1983). As a result of a request for comments from the public on how the various Federal agencies are implementing the CEQ regulations implementing NEPA and subsequent public meetings, the CEQ issued guidance to the Federal agencies to help officials manage the NEPA process in a more efficient manner. Topics covered include scoping, categorical exclusions, adoption procedures, contracting provisions, selection of alternatives in licensing and permitting situations, and tiering.

Scoping Guidance (Memorandum for General Counsels, NEPA liaisons and Participants in Scoping, April 30, 1981; availability announced in 46 FR 25461, 1981). As part of its oversight responsibilities, the CEQ conducted a special study of the scoping process and developed a series of recommendations for successfully conducting scoping. The document defines 'scoping, provides advice for government agencies in conducting scoping, advice for public participants in scoping, and brief points for applicants.

Interagency Consultation to Avoid or Mitigate Adverse Effects on Rivers in the Nationwide Inventory (Memorandum for Heads of Agencies; August 10, 1980). This memorandum sets forth procedures and guidance for interagency consultation to avoid or mitigate adverse effects on rivers in the nationwide inventory.

Analysis of Impacts on Prime or Unique Agricultural Lands in Implementing the National Environmental Policy Act (Memorandum for Heads of Agencies; August 11, 1980): This memorandum provides guidance on how to analyze agricultural land impacts more effectively in the project planning process and under NEPA.

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Environmental Review Pursuant to Section 1424(e) of the Safe Drinking Water Act of 1974 and its Relationship to the National Environmental Policy Act of 1969 (Memorandum for Heads of Federal Agencies; November 19, 1976). This memorandum provides guidance to Federal agencies on how to carry out an evaluation of the impact of federally assisted projects on groundwater supplies.

State and Local Agency Review of Impact Statements (Memorandum for Heads of Departments and Agencies; January 9, 1973). This memorandum provides clarification on the relationship between the A-95 procedures for review and comment and the review of EIS's required under NEPA, section 102(2)(c).

Department of the Interior Manual Guidance

Departmental Manual, Part 516, National Environmental Policy Act of 1969 (516 DM 1-7). This manual guidance, prepared by the Office of Environmental Project Review (OEPR); sets forth policies and procedures to be followed by all agencies and organizational units within the Department of the Interior for complying with NEPA. The BLM's NEPA responsibilities, guidance to applicants, major actions normally requiring an EIS, and categorical exclusions are identified in 516 DM 6, Appendix 5.

Departmental Manual, Part 511, Intergovernmental Review of Department of the Interior Programs and Activities (511 DM 1-8). This manual guidance establishes policies and procedures for bureau and office compliance with Executive Order 12372, "Intergovernmental Review of Federal Programs", as amended, and the Department's implementing regulations under 43 CFR Part 9 (Appendix 1). The guidance complements procedures found in 516 DM 1-7 for using existing notification, coordination and review mechanisms to satisfy intergovernmental consultation requirements. The BLM development projects or proposed actions covered by this manual are listed in 511 DM 7, Appendix 2.

Department of the Interior, Office of Environmental Project Review Memoranda

Environmental Statement (ES) and Environmental Review (ER) Memoranda issued by OEPR in effect as of January 13, 1988:

ES72-5, Procedures for Intra-Departmental Review of Environmental Statements prepared by Bureaus and Offices, Apr. 3, 1972.

ES74-5, Numbers of review copies of environmental statements required by other Federal and Federal-State agencies, Mar. 5, 1974.

ES76-2, State and Local Agency Review of Environmental Statements, Mar. 11, 1976.

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ES77-5, Environmental Impacts on Groundwater, Aug. 26, 1977.

ES78-2, Transmittal of Change in PEP Environmental Statement Memorandum
ES76-2, Jan. 24, 1978.

ES80-2, Nationwide Inventory of Potential Wild and Scenic Rivers,
Aug. 15, 1980.

ES80-3, Prime and Unique Agricultural Lands, Aug. 18, 1980.

ES81-4, Time periods for Review of a Draft EIS, Jan. 23, 1981.

ES81-6, Review of EIS's by the State of Virginia, Jan. 30, 1981.

ES81-7, Monthly Report of Environmental Impact Statements, Feb. 4, 1981.

ES84-2, Federal and Federal-State Agency NEPA Contacts, Dec. 28, 1984.

ES84-3, Federal and Federal-State Agencies with Jurisdiction by Law or
Special Expertise on Environmental Quality Issues, Dec. 28, 1984.

ES84-4, Federal and Federal-State Offices for Receiving and Commenting on
Other Agencies' Environmental Documents, Dec. 28, 1984.

ES85-2, Procedures for Approving and Filing Environmental Impact
Statements, Feb. 12, 1986.

ES88-1, Memoranda in Effect, Jan. 13, 1988.

ES88-2, U.S. Public Health Service, amends ES84-3 and ES84-4,
Jan. 13, 1988.

ES88-3, Other Review and Consultation Requirements, Mar. 29, 1988.

ER73-2, Memorandum of Understanding Between U.S. Coast Guard and Federal
Highway Administration re Bridge Projects, Apr. 11, 1973.

ER74-2, Procedures for Reviewing Project and Environmental Reports
prepared by or for NON-Federal Agencies, Mar. 1, 1974.

ER75-2, Procedures for transmittal of review comments on proposals of the
Federal Highway Administration (FHWA), July 21, 1975.

ER75-3, Procedures for transmittal of review comments on proposals of the
Federal Highway Administration (FHWA), amends ER75-2, Aug. 15, 1975.

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ER77-2, Interim-guidance on referrals to CEQ of proposed Federal actions found to be environmentally unsatisfactory, Sept. 7, 1977.

ER77-3, Transfer of Receipt and Filing of Comments on Environmental Statements from CEQ to EPA and Change in Number of Copies Required by EPA, Nov. 29, 1977.

ER80-2, Section 4(f) of the Department of Transportation Act, June 25, 1980.

ER83-2, Preliminary Natural Resources Surveys, Nov. 1, 1983.

ER85-2, Review of Applications to the Federal Energy Regulatory Commission (FERC), Dec. 5, 1985.

ER85-3, Interventions in Proceedings of the Federal Energy Regulatory Commission (FERC), supplements ER8S-2, Dec. 6, 1985.

ER88-1, Memoranda in Effect, Jan. 13, 1988.

Bureau of Land Management Guidance and Reference Materials

BLM Manual Section 1790, National Environmental Policy Act of 1969 (MS 1790). This Manual sets forth BLM policies for complying with CEQ regulations (40 CFR 1500-1508) and Departmental guidance (516 DM 1-7) on implementing the National Environmental Policy Act of 1969.

BLM Handbook 1790-1, National Environmental Policy Act (H-1790-1). This Handbook provides guidance on how to comply with procedures established in the CEQ regulations (40 CFR 1500-1508) and Departmental guidance (516 DM 1-7) on implementing the National Environmental Policy Act of 1969.